

Article - Financial Institutions

§12-916.

(a) (1) A licensee may not perform debt management services for a consumer unless:

(i) 1. The licensee provides the consumer with a consumer education program;

2. The licensee provides the consumer with a written summary of the counseling options and strategies for addressing the consumer's debt problems developed under § 12-901(e)(2) of this subtitle; and

3. The consumer signs an acknowledgment stating that the consumer has reviewed the written summary and has decided to proceed with entering into a debt management services agreement with the licensee;

(ii) The licensee, through a debt management counselor certified by an independent organization, has:

1. Prepared a financial analysis of and an initial budget plan for the consumer's debt obligations;

2. Provided a copy of the financial analysis and the initial budget plan to the consumer; and

3. Provided to the consumer, for all creditors identified by the consumer, a list of:

A. The creditors that the licensee reasonably expects to participate in the management of the consumer's debt under the debt management services agreement; and

B. The creditors that the licensee reasonably expects not to participate in the management of the consumer's debt under the debt management services agreement;

(iii) The licensee and the consumer have executed a debt management services agreement that describes the debt management services to be provided by the licensee to the consumer;

(iv) The licensee has a reasonable expectation based on the licensee's past experience that each creditor of the consumer that is listed as a participating creditor in the consumer's debt management services agreement will accept payment of the consumer's debts owed to the creditor as provided in the consumer's debt management services agreement;

(v) The licensee has made a determination, based on the licensee's

analysis of the information provided by the consumer and otherwise available to it, that:

1. The debt management services are suitable for the consumer; and

2. The consumer will be able to meet the payment obligations under the debt management services agreement; and

(vi) A copy of the completed debt management services agreement has been provided to the consumer.

(2) (i) A licensee may provide to a consumer the materials required under paragraph (1)(ii) of this subsection using the Internet if:

1. A debt management counselor of the licensee has reviewed and approved the computer program or application used to create the financial analysis and initial budget plan; and

2. The consumer is:

A. Advised of the availability of counseling; and

B. Afforded the opportunity for counseling and for discussion of the financial analysis and initial budget plan with a debt management counselor at any time.

(ii) Title 21 of the Commercial Law Article applies to the provision of materials and associated transactions under this paragraph.

(3) In addition to the requirements under paragraph (1) of this subsection, before providing debt management services for a consumer, a debt management services provider shall provide a written notice to the consumer stating:

(i) That if the consumer elects to file for bankruptcy, the consumer will be required under federal bankruptcy law to receive pre-bankruptcy credit counseling services from a nonprofit credit counseling agency that is approved by the United States Trustee Program;

(ii) Whether the debt management services provider is approved by the United States Trustee Program to provide pre-bankruptcy credit counseling services; and

(iii) That the consumer should contact a federal bankruptcy court to obtain a list of credit counseling agencies that are approved by the United States Trustee Program.

(b) Each debt management services agreement shall:

- (1) Be signed and dated by the licensee and the consumer; and
- (2) Include, in at least 12 point type:
 - (i) The name, address, and phone number of the consumer;
 - (ii) The name, address, phone number, and license number of the licensee;
 - (iii) A description of the debt management services to be provided to the consumer and any fees to be charged to the consumer for the debt management services;
 - (iv) A disclosure of the existence of the surety bond required under § 12-914 of this subtitle;
 - (v) The name and address of the financial institution in which funds, paid by the consumer to the licensee for disbursement to the consumer's creditors, will be held;
 - (vi) A notice of the right of a party to the debt management services agreement to rescind the debt management services agreement at any time by giving written notice of rescission to the other party;
 - (vii) A schedule of payments that the consumer must make to the debt management services provider, including:
 1. The amount of each payment and the date on which each payment is due; and
 2. An itemization of the maintenance fees that will be retained by the debt management services provider, and the amount of money that will be paid to the consumer's creditors, from each payment the consumer makes to the debt management services provider;
 - (viii) A list of:
 1. A. Each participating creditor of the consumer to which payments will be made under the debt management services agreement;
B. The amount owed to each creditor; and
C. A schedule of payments that the debt management services provider will make to each participating creditor from the consumer's payments, including the amount of each payment and the date on which each payment will be made; and
 2. Each creditor that the licensee reasonably expects not to

participate in the management of the consumer's debt under the debt management services agreement;

(ix) A disclosure that the licensee also may receive compensation from the consumer's creditors for providing debt management services to the consumer;

(x) A disclosure that the licensee may not, as a condition of entering into a debt management services agreement, require a consumer to purchase for a fee a counseling session, an educational program, or materials and supplies;

(xi) A disclosure that the licensee may not require a voluntary contribution from a consumer for any service provided by the licensee to the consumer;

(xii) A disclosure that, by executing the debt management services agreement, the consumer authorizes any financial institution in which the licensee has established a trust account for deposit of the consumer's funds to disclose to the Commissioner any financial records relating to the trust account during the course of any investigation or examination of the licensee by the Commissioner;

(xiii) A disclosure that execution of a debt management services agreement may impact the consumer's credit rating and credit scores; and

(xiv) The following notice:

"The Commissioner of Financial Regulation for the State of Maryland will accept questions and complaints from Maryland residents regarding (name and license number of the debt management services provider) at (address of the Commissioner) phone (toll-free number of the Commissioner). Do not sign this agreement before you read it. You must be given a copy of this agreement."

(c) A debt management services agreement between a consumer and a person that is not a licensee under this subtitle shall be null and void, and all fees paid to the person under the debt management services agreement shall be recoverable by the consumer, together with reasonable attorney's fees.